

**From:** jonathan hirschman  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

To Whom It May Concern:

I firmly believe that the proposed DOJ settlement for Microsoft does not serve either the best interests of the consumer or the business community at large. I'd like to recount several experiences that underscore that conviction.

I've been involved in the IT and Interactive Media industries since the '80s, and I've seen how Microsoft has stifled competition, progress and made the technological workplace less efficient as a result. Additionally, Microsoft has made my life as a consumer more difficult, removing choices that I'd like to see in the marketplace.

Examples:

\* While overseeing a switch-over from a DOS environment to a Windows environment in the early '90s, my company (Newkirk Products, Inc. in Albany, NY) was forced to remove DR-DOS from all machines, and move instead to MS-DOS. Why? Because Windows 3.0/3.1 was purposely made to not function on DR-DOS. Newkirk was actually paying extra to use DR-DOS (most PC's came with MS-DOS at the time, bundled in) since it was far superior.

Newkirk was compelled to move to Windows due to the business community's wholesale move to Office. Companies were moving to Office not because it was the best software at the time, but because Microsoft's bundling practices at the time made it the cheapest. Newkirk had been using Borland and other office productivity products up to that time. Newkirk did not want to move to Windows, had their been versions of Office for other GUI products of the time (for example, GEM, from DRI, which was more functional and more advanced than Windows at the same time).

The move to Windows ended up increasing costs, overall, as Windows did not work on existing PCs as well as competing GUI products. It was, however, a case of either being able to trade documents with other companies, or not being able to.

Moving to MS-DOS, in turn, made it more difficult for Newkirk to continue using Novell's Netware product. Again, Newkirk felt compelled to move to Windows NT. Microsoft's predatory pricing at the time also helped fuel management's decision; NT was given away nearly for free at the time, even if the official pricing didn't reflect that.

When I left Newkirk after 6 years, it had gone from a multi-product environment to one that was exclusively Microsoft products. Microsoft's

lock on both the operating system market, and the applications market, effectively forced Newkirk off of a technology path that was essentially non-Microsoft.

\* As an Executive Producer at Time Inc. New Media's Pathfinder, Microsoft's grip on the industry became even more accute. Pathfinder was one of the first commercial Internet sites, and was the first "portal" as well.

Microsoft effectively forced many technological choices upon us due to bundling Internet Explorer with Windows. Despite the fact that Netscape's browser was far superior, Pathfinder was forced to "dumb down" its Web site so that Internet Explorer users wouldn't be left out.

It was clear to me that users only used Internet Explorer since it was shipped with their computers, not because it was a good product. During my exposure to users of the Internet, it became clear to me that if no browser had shipped with Windows, users would have picked Netscape almost all of the time.

\* Two other events from my days with Pathfinder bear recounting:

In 1995, we were visited by a representative from Microsoft that told us that Microsoft was going to dominate the Internet, and that if we didn't fall in line with their techological vision, we'd be "swept aside". It made more than a few senior executives nervous.

It is my understanding that, later, Microsoft even took the step of proposing a "quid pro quo" arrangement with Pathfinder: that if Pathfinder changed its site to "favor" Internet Explorer, Pathfinder would enjoy both the latest inside track technology from Microsoft as well as lucrative "banner" advertising. This was rejected due to concerns of journalistic integrity and general ethics.

\* As an end-user, I enjoy the benefits of Linux and other "free" operating systems and related technologies. However, Microsoft's industry dominance has strangled efforts for innovation on non-Microsoft platforms.

One example is computer games. Microsoft, again, due to their platform ubiquity, was able to compel game publishers to change the APIs that they used for creating the games. In the '90's, many, if not most, game publishers were using OpenGL as their graphical API. OpenGL is cross platform, which means that it is relatively easy for game publishers to port their software to Macintosh or Linux should they wish to do so.

However, Microsoft, again using bundling tactics, forced the industry to move to DirectX - a Microsoft only API. As a result, most games realistically cannot be ported to other platforms - it is too expensive an endeavor to re-write them from the ground up.

As a result, at least partially, there are very few games for the Macintosh and Linux. If Microsoft were forced to move their gaming technology (as well as their other software) to their platforms, consumers would greatly benefit from increased choice.

Although there are efforts to clone Microsoft's API on other platforms, my understanding is that such efforts have no standing in the current settlement. They should.

Microsoft's dominance of network operating systems have also spawned work-alikes, such as Samba. Samba allows anyone to run Microsoft file and print sharing protocols, but for free. It is an excellent product that large companies such as HP have based for-pay products on.

However... Microsoft keeps on changing their proprietary APIs, seemingly to "break" compatibility. This is a well known fact in the Samba community.

Since Samba is the only real competitor to Microsoft's networking operating systems, it deserves standing in any settlement.

Lastly:

I believe that the only way to effectively stop Microsoft from their stifling effect on the technology world at large is to split the company into two or entities. One such entity, Applications, should be mandated to provide equal version of their software on at least three non-Windows operating systems., preferably those with the largest user-bases.

I believe that Microsoft's source code should be open to examination by competitors, including those that represent "free" products like Samba.

I believe that Microsoft's source code should be released to the public domain within a year of commercial release, to ensure that there are no hidden functions or agendas within their products.

Hopefully letters such of this one will have an effect on the outcome of this case. I sincerely believe that the current settlement will do very little to rein in Microsoft's continuing abuse.

jonathan hirschman